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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,180	12/01/2003	Craig S. Holub	641-11/MBE	1334

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EXAMINER

MAI, TRI M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/724,180	Applicant(s) HOLUB, CRAIG S.	
	Examiner Tri M. Mai	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-12 is/are pending in the application.
4a) Of the above claim(s) 6 and 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7,11 and 12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

1. Claims 6, and 8-10 are withdrawn from further consideration pursuant to 37 CFR

1.142(b) as being drawn to a nonelected invention as previously set forth.

2. Claims 1, 2, 4, and 7 are rejected under 35 U.S.C. 102 (b) as being anticipated by Fish (5205530). Fish teaches a holder having a frame, and a panel 5. With respect to the limitation that the towel does not obstruct the panel, it is noted that the device in Fish is capable of the claimed functionality, i.e., if the towel is inserted from the back, then the panel is visible in the front. Furthermore, one can hold the device by the hook upside down, thus the panel is always visible. The claim does not limit the device to be held in any specific orientation.

Regarding claim 7, note the panel 5 is on the thickened peripheral edge as claimed, i.e., it is connected to the peripheral edge.

3. Claims 1, 2, 4, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102 (b) as being anticipated by Fish (4644610). Fish teaches a holder having a frame, and a panel 6.

It is noted that portion 6 is part of the frame, and the slot is portion 12. Note that the recitation "a panel ..disposed on the frame" does not limit panel not being a part of the frame similar to that of applicant structure wherein the panel is a portion of the frame.

4. Claim 5 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Fish '530 in view of Rifkin (2457274). It would have been obvious for one of ordinary skill in the art to make the device of Fish composed of two frame halves and the membrane is disposed between to provide the desired construction for the device.

5. Claims 1, 2, 4, 5, 7, 11, and 12 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Kalvig (3365761) in view of Nelson (5381588). Kavig teaches a frame a panel 10 disposed on the frame, and portion 13 is the slot as claimed. Kavig meets all claimed limitations except

Art Unit: 3727

for having the indicia on the holder. Nelson teaches that it is known in the art to provide indicia on the face (col. 2, ln. 68). It would have been obvious for one of ordinary skill in the art to provide indicia on the face of panel 10 to advertise and/or to let one aware of the trade mark, etc.

6. Claims 1, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Michlin et al. (5516114). Michlin teaches a device having a frame (portion 12, at least one flap 15, and a panel 14 a, 14b. The panel has indicia as claimed, i.e., col. 4, ln. 21-28 teaches one can decorate the disk 10 with indica.

7. Applicant's arguments have been fully considered but they are not persuasive. With respect to the Fish '530 reference. The amended claims do not read over the Fish '530 reference. as set forth above, one can position the towel in a manner that the towel would not obstruct the panel, i.e., if the towel is inserted from the back, then the panel is visible in the front. Furthermore, one can hold the device by the hook upside down, thus the panel is always visible. The claim does not limit the device to be hold in any specific orientation.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3727

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai
Primary Examiner
Art Unit 3727

